

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

KYLE FINNELL,

Petitioner, : Case No. 1:17-cv-268

- vs -

District Judge Douglas R. Cole  
Magistrate Judge Michael R. Merz

TIM SCHWEITZER, Warden,  
Lebanon Correctional Institution,

Respondent.

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**DECISION AND ORDER**

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This habeas corpus case, brought *pro se* by Petitioner Kyle Finnell, is before the Court on Finnell’s Motion for Leave To Address Issue Concerning Stay An[d] Abeyance and Appointment Of Counsel Under The Federal Disability Act, or Appointment Of NLPA And H. Wesley Robinson (Wrobinson @Nlpa.Com )(ECF No. 103).

While it is very difficult to tell what relief Finnell is seeking in this Motion, he begins by asking the Court to take judicial notice of the records of the Hamilton County, Ohio, Clerk of Courts in Case No. B-1307615 which are reportedly online at [https://courtclerk.org/ records-search/search-by-case-number](https://courtclerk.org/records-search/search-by-case-number). The Magistrate Judge visited that website at 3:30 p.m. on May 16, 2023, and was advised Case Number B 1307615 was not found in any of the databases maintained by the Clerk of Courts, including for Common Pleas – Criminal.

Fed. R. Evid. 201 allows a court to take judicial notice of adjudicative facts that “(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” In this instance, it appears that the contents of the Clerk’s file for Case No. B-

1307615 cannot be determined by querying the relevant databases online.

Furthermore, it appears to the Magistrate Judge that the purpose of requesting judicial notice of the contents of that file is to refute the findings the Magistrate Judge made in dissolving the stay of these proceedings and going forward with a Report and Recommendations on the merits (ECF No. 57). Finnell seems to be seeking reinstatement of the stay pending completion of his new trial proceedings in the Hamilton County Court of Common Pleas.

The Court has not had a status report since December 2020 (ECF No. 54). It is accordingly ORDERED that Respondent file, not later than May 26, 2023, a status report regarding the new trial proceedings with docket sheets since the last status report.

Since the documents of which Petitioner wishes the Court to take judicial notice do not appear to be available to the public online his request for judicial notice is denied.

Finnell also requests the appointment of counsel under “The Federal Disability Act.” The Court has no authority to appoint counsel in a habeas corpus case under that statute. He also requests appointment as counsel of “NLPA.” A Google search of that term suggests Finnell is referring to the National Legal Professionals Association. However, the Court has no authority to appoint an organization of attorneys to represent a litigant. Lastly, Finnell asks the Court to appoint Attorney H. Wesley Robinson. The Court has no record of Mr. Robinson’s having been admitted to practice law before this Court.

May 16, 2023.

*s/ Michael R. Merz*  
United States Magistrate Judge